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Paper No.

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APR 19 2005

**OFFICE OF PETITIONS**

In re Application of  
Tal Cohen, Paul Giannatto,  
John Edwards, Uri Rapoport and  
Naim Levi  
Application No. 10/751,551  
Filed: January 5, 2004  
Attorney Docket No. FOM-140.01  
Title: NMR PROBE WITH FLOW  
RESTRICTION ELEMENT

DECISION REFUSING STATUS  
UNDER 37 C.F.R. §1.47(a)

This is in response to the PETITION UNDER 37 C.F.R. § 1.47(a)  
filed November 9, 2004.

The petition is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor.

**Failure to respond will result in abandonment of the application.**  
Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on January 5, 2004, with an application data sheet identifying as joint inventors Tal Cohen, Paul Giannatto, John Edwards, Uri Rapoport and Naim Levi. However, no oath or declaration was filed. Accordingly, on April 9, 2004, the Office mailed a Notice to File Missing Parts of Application requiring an executed oath or declaration and a surcharge for its late filing. This Notice set a two month period for reply with extensions of time obtainable under § 1.136(a).

In response, applicants filed the instant petition with a declaration executed by joint inventors Giannatto and Edwards on behalf of themselves and on behalf of non-signing joint inventors

Cohen, Rapoport and Levi. This response was made timely by an accompanying petition and fee for extension for response within the fifth month.

A grantable petition under 37 C.F.R. § 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or found, after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

On petition, and by documentary evidence, patent attorney Shaun Montana has set forth the circumstances of the presentation of the application papers to the non-signing inventors. Attorney Montana has shown that by their conduct in not responding, inventors Rapoport and Levi have refused to join in the application. In addition, the petition includes the declaration of Vered Kama-Schefner attesting to inventor Cohen's oral refusal to sign.

However, the petition is not grantable because the declaration submitted is not in compliance with §1.63(a) and (c)(1). 37 CFR § 1.63(a)(3) provides that an oath or declaration filed under § 1.51(b)(2) as a part of a nonprovisional application must identify the country of citizenship of each inventor. As stated in the Notice mailed November 18, 2004, the declaration filed November 9, 2004 does not identify the citizenship of each inventor, and thus, does not satisfy § 1.63(a). The requirement for each inventor's citizenship is statutory, and thus, cannot be waived.

§1.63(c) provides that:

Unless such information is supplied on an application data sheet in accordance with § 1.76, the oath or declaration must also identify:

(1) The mailing address, and the residence if an inventor lives at a location which is different from where the inventor customarily receives mail, of each inventor;

...

The declaration submitted does not include the mailing address of each of the inventors. Such information is supplied on the application data sheet for all of the inventors, except inventor Levi. Thus, it is concluded that as to inventor Levi and the mailing address requirement of § 1.63(c), rule 47 applicants have not satisfied § 1.63(c)(1).

Further correspondence with respect to this decision should be addressed as follows:

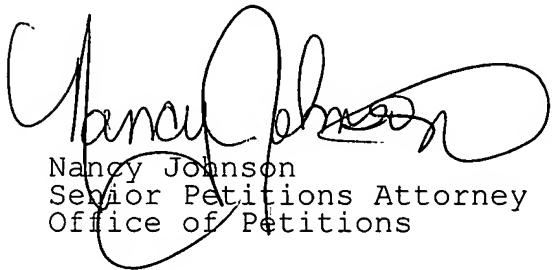
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Telephone inquiries related to this decision may be directed to  
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